

AMENDED IN ASSEMBLY AUGUST 27, 2012

AMENDED IN ASSEMBLY AUGUST 24, 2012

AMENDED IN ASSEMBLY JUNE 27, 2012

AMENDED IN ASSEMBLY JUNE 26, 2012

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 26, 2011

AMENDED IN SENATE MARCH 22, 2011

SENATE BILL

No. 616

Introduced by Senator DeSaulnier

February 18, 2011

An act to add Section 805.8 to the Business and Professions Code, and to amend Section 11165 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 616, as amended, DeSaulnier. Controlled substances: reporting.

Existing law classifies certain controlled substances into designated schedules. Existing law requires the Department of Justice to maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of the prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

Existing law requires dispensing pharmacies and clinics to report, on a weekly basis, specified information for each prescription of Schedule

II, Schedule III, or Schedule IV controlled substances, to the department, as specified.

This bill would establish the CURES Fund within the State Treasury to receive funds to be allocated, *upon appropriation by the Legislature*, to the Department of Justice for the purposes of funding CURES, and would make related findings and declarations.

This bill would, if insufficient funds exist to cover operational costs of CURES or a permanent and ongoing funding source is not identified for CURES, require the Medical Board of California, the Dental Board of California, the *California* State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Committee of the Medical Board of California, the Osteopathic Medical Board of California, the State Board of Optometry, and the California Board of Podiatric Medicine to increase the licensure, certification, and renewal fees charged to practitioners under their supervision who are authorized to prescribe or dispense controlled substances by up to \$10 annually, the proceeds of which would be ~~continuously appropriated to the Department of Justice~~, *deposited into the CURES Fund* for support of CURES, as specified.

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Controlled Substance Utilization Review and Evaluation
- 4 System (CURES) is a valuable investigative, preventive, and
- 5 educational tool for law enforcement, regulatory boards,
- 6 educational researchers, and the health care community. Recent
- 7 budget cuts to the Attorney General's Division of Law Enforcement
- 8 have resulted in insufficient funding to support the CURES
- 9 Prescription Drug Monitoring Program (PDMP). The PDMP is
- 10 necessary to ensure health care professionals have the necessary
- 11 data to make informed treatment decisions and to allow law
- 12 enforcement to investigate diversion of prescription drugs. Without
- 13 a dedicated funding source, the CURES PDMP is not sustainable.
- 14 (b) Each year CURES responds to more than 60,000 requests
- 15 from practitioners and pharmacists regarding all of the following:

1 (1) Helping identify and deter drug abuse and diversion of
2 prescription drugs through accurate and rapid tracking of Schedule
3 II, Schedule III, and Schedule IV controlled substances.

4 (2) Helping practitioners make better prescribing decisions.

5 (3) Helping reduce misuse, abuse, and trafficking of those drugs.

6 (c) Schedule II, Schedule III, and Schedule IV controlled
7 substances have had deleterious effects on private and public
8 interests, including the misuse, abuse, and trafficking in dangerous
9 prescription medications resulting in injury and death. It is the
10 intent of the Legislature to work with stakeholders to fully fund
11 the operation of CURES which seeks to mitigate those deleterious
12 effects, and which has proven to be a cost-effective tool to help
13 reduce the misuse, abuse, and trafficking of those drugs.

14 SEC. 2. Section 805.8 is added to the Business and Professions
15 Code, to read:

16 805.8. (a) If the Attorney General determines that the ability
17 of regulatory agencies to adequately monitor prescribers and
18 dispensers of Schedule II, Schedule III, and Schedule IV controlled
19 substances has been compromised because insufficient funds exist
20 to cover the operational costs of the Controlled Substance
21 Utilization Review and Evaluation System (CURES) established
22 by Section 11165 of the Health and Safety Code, or because a
23 permanent and ongoing funding source sufficient to cover the
24 operational costs of CURES has not been implemented by July 1,
25 2014, the Medical Board of California, the Dental Board of
26 California, the *California* State Board of Pharmacy, the Veterinary
27 Medical Board, the Board of Registered Nursing, the Physician
28 Assistant Committee of the Medical Board of California, the
29 Osteopathic Medical Board of California, the State Board of
30 Optometry, and the California Board of Podiatric Medicine, shall
31 increase the licensure, certification, and renewal fees charged to
32 practitioners under their supervision who are authorized pursuant
33 to Section 11150 of the Health and Safety Code to prescribe or
34 dispense Schedule II, Schedule III, or Schedule IV controlled
35 substances by up to ten dollars (\$10) annually, but in no case shall
36 the fee increase exceed the reasonable costs associated with
37 maintaining CURES for the purpose of regulating prescribers and
38 dispensers of controlled substances licensed or certificated by these
39 boards.

1 (b) The funds collected pursuant to subdivision (a) shall be
2 deposited in the CURES accounts, which are hereby created, within
3 the Contingent Fund of the Medical Board of California, the State
4 Dentistry Fund, the Pharmacy Board ~~Contingency~~ *Contingent*
5 Fund, the Veterinary Medical Board Contingent Fund, the Board
6 of Registered Nursing Fund, the ~~Contingent Fund of the~~
7 Osteopathic Medical Board of California *Contingent Fund*, the
8 Optometry Fund, and the Board of Podiatric Medicine Fund.
9 Moneys in the CURES accounts of each of those funds ~~are,~~
10 ~~notwithstanding Section 13340 of the Government Code,~~
11 ~~continuously appropriated without regard to fiscal year shall, upon~~
12 ~~appropriation by the Legislature, be available~~ to the Department
13 of Justice solely for maintaining CURES for the purposes of
14 regulating prescribers and dispensers of controlled substances. All
15 moneys received by the Department of Justice pursuant to this
16 section shall be deposited in the CURES Fund described in Section
17 11165 of the Health and Safety Code.

18 SEC. 3. Section 11165 of the Health and Safety Code is
19 amended to read:

20 11165. (a) To assist law enforcement and regulatory agencies
21 in their efforts to control the diversion and resultant abuse of
22 Schedule II, Schedule III, and Schedule IV controlled substances,
23 and for statistical analysis, education, and research, the Department
24 of Justice shall, contingent upon the availability of adequate funds
25 in the CURES accounts of the Contingent Fund of the Medical
26 Board of California, the Pharmacy Board Contingent Fund, the
27 State Dentistry Fund, the Board of Registered Nursing Fund, the
28 Osteopathic Medical Board of California Contingent Fund, the
29 Veterinary Medical Board ~~Contingency~~ *Contingent* Fund, the
30 Optometry Fund, the Board of Podiatric Medicine Fund, and the
31 CURES Fund, maintain the Controlled Substance Utilization
32 Review and Evaluation System (CURES) for the electronic
33 monitoring of, and Internet access to information regarding, the
34 prescribing and dispensing of Schedule II, Schedule III, and
35 Schedule IV controlled substances by all practitioners authorized
36 to prescribe or dispense these controlled substances.

37 (b) The reporting of Schedule III and Schedule IV controlled
38 substance prescriptions to CURES shall be contingent upon the
39 availability of adequate funds for the Department of Justice. The
40 department may seek and use grant funds to pay the costs incurred

1 from the reporting of controlled substance prescriptions to CURES.
2 The department shall make information about the amount and the
3 source of all private grant funds it receives for support of CURES
4 available to the public. ~~Funds~~ *Grant funds* shall not be appropriated
5 from the Contingent Fund of the Medical Board of California, the
6 Pharmacy Board Contingent Fund, the State Dentistry Fund, the
7 Board of Registered Nursing Fund, the Naturopathic Doctor's
8 Fund, or the Osteopathic Medical Board of California Contingent
9 Fund to pay the costs of reporting Schedule III and Schedule IV
10 controlled substance prescriptions to CURES.

11 (c) CURES shall operate under existing provisions of law to
12 safeguard the privacy and confidentiality of patients. Data obtained
13 from CURES shall only be provided to appropriate state, local,
14 and federal persons or public agencies for disciplinary, civil, or
15 criminal purposes and to other agencies or entities, as determined
16 by the Department of Justice, for the purpose of educating
17 practitioners and others in lieu of disciplinary, civil, or criminal
18 actions. Data may be provided to public or private entities, as
19 approved by the Department of Justice, for educational, peer
20 review, statistical, or research purposes, provided that patient
21 information, including any information that may identify the
22 patient, is not compromised. Further, data disclosed to any
23 individual or agency, as described in this subdivision, shall not be
24 disclosed, sold, or transferred to any third party.

25 (d) For each prescription for a Schedule II, Schedule III, or
26 Schedule IV controlled substance, as defined in the controlled
27 substances schedules in federal law and regulations, specifically
28 Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21
29 of the Code of Federal Regulations, the dispensing pharmacy or
30 clinic shall provide the following information to the Department
31 of Justice on a weekly basis and in a format specified by the
32 Department of Justice:

33 (1) Full name, address, and telephone number of the ultimate
34 user or research subject, or contact information as determined by
35 the Secretary of the United States Department of Health and Human
36 Services, and the gender, and date of birth of the ultimate user.

37 (2) The prescriber's category of licensure and license number,
38 the federal controlled substance registration number, and the state
39 medical license number of any prescriber using the federal

- 1 controlled substance registration number of a government-exempt
2 facility.
- 3 (3) Pharmacy prescription number, license number, and federal
4 controlled substance registration number.
- 5 (4) National Drug Code (NDC) number of the controlled
6 substance dispensed.
- 7 (5) Quantity of the controlled substance dispensed.
- 8 (6) International Statistical Classification of Diseases, 9th
9 revision (ICD-9) Code, if available.
- 10 (7) Number of refills ordered.
- 11 (8) Whether the drug was dispensed as a refill of a prescription
12 or as a first-time request.
- 13 (9) Date of origin of the prescription.
- 14 (10) Date of dispensing of the prescription.
- 15 (e) The CURES Fund is hereby established within the State
16 Treasury. The CURES Fund shall consist of all funds made
17 available to the Department of Justice for the purposes of funding
18 CURES. Money in the CURES Fund ~~shall, notwithstanding Section~~
19 ~~13340 of the Government Code, be continuously appropriated~~
20 ~~without regard to fiscal year shall, upon appropriation by the~~
21 *Legislature, be available for allocation* to the Department of Justice
22 for the purposes of funding CURES.